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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/083,150	05/22/1998	BOUDIAF BOUSSOIRA	057250306000	3636

7590 08/29/2003

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WASHINGTON, DC 200053315

EXAMINER

WEBMAN, EDWARD J

ART UNIT	PAPER NUMBER
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1617

DATE MAILED: 08/29/2003

31

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/083150

Applicant(s)

BOUSSOURA

Examiner

WEBMAN

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 5/23/03
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-44 is/are pending in the application.
- ☐ Of the above claim(s) 29-32, 36, 38-44 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-28, 33-35, 37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23, 27, 28, 33-35, 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al. In view of Fanchon et al.

Wolf et al. teach an anti-acne composition comprising 0.01-25% of a carrier complexed to active (abstract). 40%-50% carrier is specified (column 4 lines 11-13). Dendritic polymers are specified (column 3 lines 42-44). Titanium oxide is specified (column 6 line 34). Stearic acid and jojoba oil are disclosed (column 5 line 53 and column 6 line 50). Sunscreens are specified (column 4 lines 31-32). Emulsions are disclosed (column 4 lines 43-44).

Fanchon et al. teach anti-acne compositions containing antioxidants and nanopigments as active agents (title, Abstract, column 7 lines 7-9, 11, 13, 29-30).

It would have been obvious to one of ordinary skill to add an antioxidant and nanopigments to the composition of Wolf et al. To achieve the beneficial effect of additional anti-acne active in view of Fanchon et al.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al in view of Fanchon et al as applied to claims 1-23, 27, 28, 33-35, 37 are above, and further in view of Garrison et al.

Garrison et al teach the chelator EDTA in anti-acne compositions to sequester discoloration-causing metal ions. (Column 4 lines 3-4).

It would have been obvious to one of ordinary skill to add a EDTA to the compositions of preventing discoloration in view of Garrison et al.

Applicants argue that applicants neither claim nor disclose reacting the claimed polymer with an active to form a complex.

However, a complex is not formed by a chemical reaction wherein the structure of the polymer is changed by covalent bonding, but rather, by mere mixing, wherein the bending is non covalent and the polymer remains chemically unchanged.

It is argued that, even if applicants' specification does not disclose such a complex, the Broad claim language encompasses such, despite applicant's protestations to the contrary.

Alternatively, it is argued that the Wolf et al complex, when placed in water, such as in example 6, dissociates to an extent dependent on a dissociation constant, wherein a portion of the polymer is unbound.

The examiner notes that applicants disclose OCTOPIROX, an acidic compound, which, it is argued, will form such a complex with the claimed polymers.

Applicants also argue an "effective amount". However, Wolf et al teaches amounts, which read on those claimed.

No claims allowed.

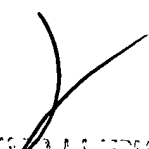
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (703) 308-4432. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (703) 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Webman/LR  
August 15, 2003

  
EDWARD L. WEBMAN  
PATENT EXAMINER  
GROUP 1600